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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JULIO DE VILLA LIPAT,

Petitioner,

v.

ERIC H. HOLDER Jr., Attorney General,

Respondent.

No. 05-74048

Agency No. A072-511-692

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted October 5, 2009  
San Francisco, California

Before: SCHROEDER and BERZON, Circuit Judges, and STROM,<sup>\*\*</sup> District  
Judge.

Julio de Villa Lipat, a native and citizen of the Philippines, seeks review of  
the denial of his application for cancellation of removal on the ground that he  
engaged in persecution. See 8 U.S.C. §§ 1229b(c)(5), 1231(b)(3)(B)(i). The

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The Honorable Lyle E. Strom, Senior US District Judge for District of  
Nebraska, sitting by designation.

Board of Immigration Appeals (“BIA”) adopted the decision of the Immigration Judge (“IJ”) insofar as the IJ held that Lipat was ineligible for cancellation of removal because he engaged in persecution of others as a member of the Philippine National Police. Matter of Burbano, 20 I&N Dec. 872 (BIA 1994).

Substantial evidence supports the IJ’s conclusion that Lipat engaged in acts of persecution. The record reflects petitioner’s participation in serious physical abuse of arrestees including smothering them in wet towels.

Lipat also challenges the IJ’s denial of a continuance for processing Lipat’s visa application, but this issue was not raised before the BIA so we lack jurisdiction to consider it. See Barron v. Ashcroft, 358 F.3d 674, 677 (9th Cir. 2004). Moreover, the petitioner offers no compelling reason for granting the continuance in view of the delay in filing the application.

The petition for review is denied.